

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
November 15, 2011

In the Matter of I. O. SMART, Minor.

No. 303328
Wayne Circuit Court
Family Division
LC No. 04-428399

Before: K. F. KELLY, P.J., and METER and GLEICHER, JJ.

PER CURIAM.

Respondent appeals as of right from the order terminating his parental rights to his minor child under MCL 712A.19b(3)(a)(ii), (c)(i), (g), and (j). We affirm.

To justify the termination of parental rights, a petitioner must establish at least one statutory ground for termination by clear and convincing evidence. *In re JK*, 468 Mich 202, 210; 661 NW2d 216 (2003). “We review for clear error both the trial court’s decision that a ground for termination of parental rights has been proved by clear and convincing evidence and, where appropriate, the court’s decision regarding the child’s best interests.” *Id.* at 209.

The lower court did not err when it found sufficient evidence that respondent deserted his child for at least 91 days and did not attempt to seek custody during that period. MCL 712A.19b(3)(a)(ii). Respondent offered confusing testimony regarding whether he kept the foster care agency informed of his moves. It appears that he did not tell anyone when he returned to a homeless shelter. At any rate, he made no effort to contact the agency, see his child, or remain involved with the court between a visit with the child in December 2009 and his next court appearance in December 2010.

The lower court also did not clearly err when it found sufficient evidence that the conditions leading to adjudication were not rectified and were not reasonably likely to be rectified within a reasonable time, considering the child’s age. MCL 712A.19b(3)(c)(i). The conditions leading to adjudication that respondent needed to rectify were his lack of appropriate housing and income and lack of connection to the child. Respondent obtained a home, but it was deemed inappropriate because it was filthy and lacked furniture. Respondent’s disappearance for one year, his failure to visit regularly after his reappearance, and his less-than-clear testimony on various issues made it unlikely he would rectify his living conditions in a reasonable time.

For the same reasons, the court did not err in finding clear and convincing evidence that respondent failed to provide proper care and custody and there was no reasonable expectation

that he would provide proper care in a reasonable time. MCL 712A.19b(3)(g). Respondent demonstrated that he was unwilling or unable to meet his child's basic needs when he disappeared for a year and then failed to arrive on time for his weekly visits. The same evidence also supported the lower court's finding that the child was likely to be harmed if returned. MCL 712A.19b(3)(j).

Respondent argues further that the lower court erred when it found termination was in the child's best interests, MCL 712A.19b(5). The child spent only four hours with respondent because he failed to seek visits for a year and failed to attend most visits offered after he reappeared. The caseworker observed no bond between respondent and the child. It was uncertain whether respondent would maintain contact with his family, and he could not meet the child's daily needs regardless of whether she had developmental delays. Permanency was in the child's best interests. See *in re McIntyre*, 192 Mich App 47, 52; 480 NW2d 293 (1991).

The lower court did not err when it held that termination was in the child's best interests and terminated respondent's parental rights.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Patrick M. Meter
/s/ Elizabeth L. Gleicher